

United States Courts
Southern District of Texas
FILED

APR 04 2017

David J. Bradicy, Clerk of Court

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ARTEMIO HERNANDEZ
Plaintiff,

V.

DAVID KENNER AND
FRONTLINE TRUCKING, INC.
Defendants

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C.A. NO. 4:17-CV-01023

JURY TRIAL REQUESTED

DEFENDANT, FRONTLINE TRUCKING, INC.'S,
NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Defendant, FRONTLINE TRUCKING, INC., files this Notice of Removal pursuant to 28 U.S.C. §§1441 and 1446, showing the following basis for removal.

I.

INTRODUCTION

1. Plaintiff, ARTEMIO HERNANDEZ, filed Plaintiff's Original Petition on December 6, 2016, initiating a lawsuit under Cause No. 2016-83911, pending in the 157th Judicial District Court of Harris County, Texas.

2. Defendant, FRONTLINE TRUCKING, INC., was served with suit through the Texas Secretary of State on March 8, 2017.

3. This original Notice of Removal is filed within thirty days of service upon Defendant, FRONTLINE TRUCKING, INC., the statutory period for removal as required under 28 U.S.C. § 1446(b).

II.

JURISDICTION

4. This court has removal jurisdiction over this lawsuit pursuant to 28 U.S.C. §§ 1441 and 1446, and based upon diversity of citizenship under 28 U.S.C. §1332. Plaintiff, ARTEMIO HERNANDEZ, is domiciled in Texas and is a citizen of that state. Defendant, FRONTLINE TRUCKING, INC., is incorporated in the state of Utah, maintains its principal place of business in Utah, and is therefore a citizen of that state. Defendant, DAVID KENNER, is domiciled in Utah and is a citizen of that State. Thus, there is diversity of citizenship between Plaintiff and Defendants.

5. In paragraph 6.3 of Plaintiff's state court petition, Plaintiff states that he seeks damages "over \$200,000.00 but not more than \$1,000,000.00". The elements of damages sought by Plaintiff include past and future damages for physical pain and mental anguish, physical disfigurement, physical impairment, medical expenses, and lost wages. Therefore, Plaintiff is seeking an amount in excess of this court's jurisdictional minimum of \$75,000.00, excluding interest and costs.

6. In accordance with Local Rule 81, Defendant attaches the following documents to this notice:

EXHIBIT A: The executed process on Defendant, Frontline Trucking, Inc. (A-1), and Defendant, David Kenner (A-2);

EXHIBIT B: Plaintiff's Original Petition (B-1), Plaintiff's First Amended Petition (B-2), and Defendants' Original Answer (B-3);

EXHIBIT C: Order on Plaintiff's Motion to Retain signed by the state judge;

EXHIBIT D: The state court's Docket Sheet;

EXHIBIT E: Index of Matters being Filed; and

EXHIBIT F: List of all Counsel of Record.

7. Venue is proper in this district and division under 28 U.S.C. §1441(a) because the state court where the action has been pending is located in this district and division.

8. Defendant will promptly file a copy of this Notice of Removal with the clerk of the state court where the action has been pending.

9. The undersigned counsel also represents, Defendant, DAVID KENNER, and Mr. Kenner consents to the removal of this action.

III.

JURY DEMAND

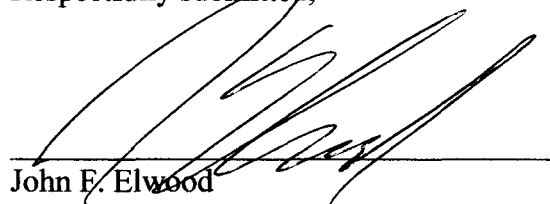
10. Plaintiff did demand a jury in the state court suit.

IV.

CONCLUSION

11. For these reasons, Defendant, FRONTLINE TRUCKING, INC., therefore gives notice of the removal of this lawsuit to this Court, and an automatic stay of further proceedings in state district court.

Respectfully submitted,



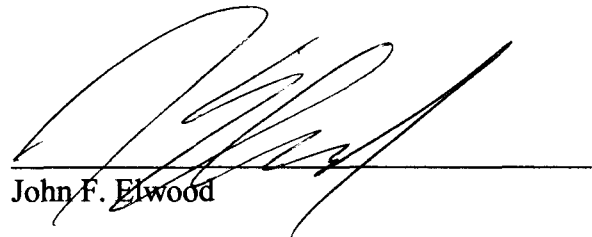
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**ATTORNEY FOR DEFENDANTS,
FRONTLINE TRUCKING, INC. AND DAVID
KENNER**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of **Defendant's Notice of Removal** has been served upon all counsel of record, in accordance with the rules, on this 3rd day of April, 2017 as follows:

Kevin Adley
Gilbert Garza
Adley Law Firm Ltd, LLP
1421 Preston St.
Houston, Texas 77002
Counsel for Plaintiff

Via Fax: 713.977.9050 and Via Email:
ggarza@adleylaw.com



John F. Elwood